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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

United States of America,)	Case No. 2:21-mj-00139-DJA
)	
Plaintiff,)	ORDER <u>To Continue Preliminary</u>
)	<u>Hearing</u>
vs.)	(First Request)
)	
Keion Joe'l Cherry,)	
)	
Defendant.)	

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A Trutanich, United States Attorney; Lisa Cartier Giroux, Assistant United States Attorney; Kimberly Sokolich, Assistant United States Attorney, representing the United States of America and Christopher Mishler, Esq., counsel for defendant Keion Joe'l Cherry, that the preliminary hearing in the above captioned case, which is currently scheduled for February 25, 2021 at 4:00pm, be continued and reset to a date and time convenient to the Court, but no sooner than sixty (60) days.

1. The government will provide counsel for the defendant with limited Rule 16 pre-indictment discovery. Counsel for the defendant requests time to review the discovery

1 and discuss it with his client prior to a preliminary hearing or indictment. Additionally, the
2 parties are discussing a pre-indictment resolution that may resolve the matter without a
3 preliminary hearing.

4 2. Counsel for the defendant has become aware of a potential conflict and needs
5 time to determine if a motion to withdraw must be filed.

6 3. This continuance is not sought for purposes of delay, but to allow defense
7 counsel an opportunity to review discovery with his client and prepare for the preliminary
8 hearing.

9 4. The defendant is not detained and agrees to the continuance.

10 5. Both counsel for the defendant and counsel for the government agree to the
11 continuance.

12 6. Federal Rule of Criminal Procedure 5.1(d) provides that a magistrate judge
13 may extend the time limits in Rule 5.1(c) with the defendant's consent and upon a showing
14 of good cause taking into account the public interest in the prompt disposition of criminal
15 cases. Because the defendant requires time to review discovery with their client prior to the
16 preliminary hearing, good cause exists to extend the time limits in Rule 5.1(c).

17 7. The time from February 25, 2021, to the new preliminary hearing date will be
18 excludable under the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A),
19 which provides that the Court may exclude time arising from a continuance upon finding
20 that the ends of justice served by granting the continuance outweigh the best interests of the
21 defendant and the public in a speedy trial.

22 8. Denial of this request could result in a miscarriage of justice, and the ends of
23 justice served by granting this request outweigh the best interest of the public and the
24 defendants in a speedy trial.

1 9. The additional time requested by this stipulation is excludable in computing
2 the time within which the indictment must be filed pursuant to the Speedy Trial Act, Title
3 18, United States Code, Section 3161(b), and considering the factors under Title 18, United
4 States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

5 10. This is the first request to continue the preliminary hearing.

6 DATED this 22 day of February 2021.

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8 NICHOLAS A. TRUTANICH
United States Attorney

/s/ Christopher Mishler
CHRISTOPHER MISHLER
Counsel for Defendant Keion Cherry

9 /s/ Lisa C. Cartier Giroux
10 LISA C. CARTIER GIROUX
Assistant United States Attorney

11 /s/ Kimberly Sokolich
12 KIMBERLY SOKOLICH
Assistant United States Attorney
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States Of America,) Case No. 2:21-mj-00139-DJA
)
Plaintiff,)
) **Findings and Order on Stipulation**
vs.)
)
Keion Joe'l Cherry,)
)
Defendant.)

Based on the pending Stipulation between the defense and the government, and good cause appearing therefore, the Court hereby finds that:

1. The government will provide counsel for the defendant with limited Rule 16 pre-indictment discovery. Counsel for the defendant requests time to review the discovery and discuss it with his client prior to a preliminary hearing or indictment.
2. Counsel for the defendant has become aware of a potential conflict and needs time to determine if a motion to withdraw must be filed.
3. To allow the defense time to review the discovery with their client prior to the preliminary hearing and with the defendant's consent, the preliminary hearing in this case should be continued for good cause.
4. The defendant is not detained and agrees to the continuance.
5. Both counsel for the defendant and counsel for the government agree to the continuance.
6. This continuance is not sought for purposes of delay, but to allow defense counsel an opportunity to review discovery with their client prior to a preliminary hearing or indictment.

1 7. Denial of this request could result in a miscarriage of justice, and the ends of justice
2 served by granting this request outweigh the best interest of the public and the
3 defendants in a speedy trial.

4 8. The additional time requested by this stipulation is excludable in computing the time
5 within which the indictment must be filed pursuant to the Speedy Trial Act, Title 18,
6 United States Code, Section 3161(b), and considering the factors under Title 18,
7 United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

8 THEREFORE, IT IS HEREBY ORDERED that the preliminary hearing in the
9 above-captioned matters currently scheduled for February 25, 2021, at 4:00p.m., be vacated
10 and continued to April 26, 2021, at 4:00 p.m., Courtroom 3A.

11 DATED this 24th day of February 2021.

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15 THE HONORABLE DANIEL J. ALBREGTS
United States Magistrate Judge